

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOHN T. OLSZYK,

Plaintiff,

vs.

**3:20-CV-445
(TJM/ML)**

JAMES THORNE, et al.,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983 and other federal anti-discrimination laws, to Magistrate Judge Miroslav Lovric for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff's Complaint, which is rambling and difficult to follow, appears to assert that Plaintiff faced discrimination during his participation in a court-ordered program. Defendants are the Pennsylvania County Judge who ordered his participation in that program and the New York-based operators of the program.

Magistrate Judge Lovric's Report-Recommendation, dkt. # 7, issued on June 18, 2020, finds that Plaintiff has failed to state a claim upon which relief could be granted. He recommends that the Court dismiss the case without prejudice to repleading against most of the Defendants. With regard to Judge Michael J. Barrasse of the Court of Common

Pleas of Lackawanna County, Pennsylvania, however, Magistrate Judge Lovric recommends that Court dismiss the case with prejudice. Magistrate Judge Lovric concludes that Judge Barrasse enjoys absolute judicial immunity under these circumstances.

Plaintiff did not object to the Report-Recommendation, and the time for such objections has passed.¹ After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

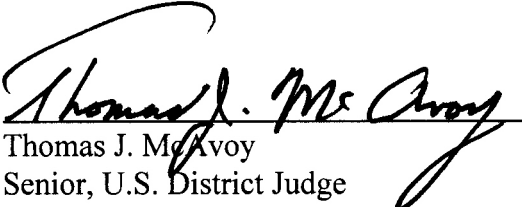
The Report-Recommendation of Magistrate Judge Lovric, dkt. # 4, is hereby **ACCEPTED** and **ADOPTED**. Plaintiff's Complaint is hereby **DISMISSED** without prejudice to repleading except for any claims agast Defendant Barrasse. Any claims against Defendant Barrasse are hereby **DISMISSED** with prejudice. Plaintiff shall file any amended complaint within thirty days of the date of this order or the Court will consider him to have abandoned the case. The Clerk of Court is directed to close the case if

¹Plaintiff listed his address as the Lackawanna County Jail. Mail sent to Plaintiff at that address was returned as undeliverable. New York Northern District Local Rule 10.1(c)(2) provides in relevant part that “[a]ll attorneys of record and *pro se* litigants must immediately notify the Court of any change of address.” L.R. 10.1(c)(2) (emphasis in original). Local Rule 41.2(b) provides that “[f]ailure to notify the Court of a change of address in accordance with L.R. 10.1(c)(2) may result in the dismissal of any pending action.” L.R. 41.2(b). The Court does not dismiss pursuant to this Rule, but in light of Magistrate Judge Lovric's Report-Recommendation. The Court notes, however, that if the Plaintiff had filed objections to the Report-Recommendation, a de novo review would have led the Court to adopt the Report-Recommendation for the reasons stated therein and dismiss the case as stated in the Report-Recommendation.

Plaintiff fails to file an amended complaint by that date.

IT IS SO ORDERED.

Dated: September 21, 2020


Thomas J. McAvoy
Senior, U.S. District Judge